

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

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FILE: B-217248

DATE: December 24, 1984

MATTER OF: Soltec Corporation

DIGEST:

Protest filed with GAO more than 10 working days after receipt by protester of contracting officer's denial of its protest to the contracting agency is untimely and not for consideration.

Soltec Corporation protests the award to any bidder other than itself under invitation for bids (IFB) No. FGS-Y5-36435-A-9-10-84 issued by the General Services Administration (GSA) on a brand name or equal basis for the supply of certain recording instruments. Soltec contends that GSA improperly rejected Soltec's low bid as nonresponsive.

We dismiss the protest as untimely.

The contract in this case was awarded on September 28, 1984. Soltec protested to GSA the rejection of its bid and award to another bidder by letter dated October 11, 1984. By letter dated November 2, received by Soltec on November 5, GSA denied Soltec's protest, stating that Soltec's bid was rejected because there was a conflict between Soltec's descriptive literature and entries it made on the IFB Schedule as to whether Soltec's product met one of the listed salient characteristics of the brand name item. By letter dated November 27, received in our Office November 30, Soltec protested to our Office.

Our Bid Protest Procedures provide at 4 C.F.R. § 21.2(a) (1984) that in order for a protest to be considered by our Office, that protest, where the initial protest was timely filed with the contracting agency, must be filed with our Office within 10 working days after the protester had "formal notification of or actual or constructive knowledge of initial adverse agency action" on its protest filed with the agency. Because Soltec's protest was received by our Office more than 10 working

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days after it had received the contracting officer's denial (the initial adverse agency action) of its protest, we will not consider the protest on its merits.

Harry R. Van Cleve

Harry R. Van Cleve
General Counsel